

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Criminal No.
03-10289-WGY

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UNITED STATES OF AMERICA

v.

ROBERT COPPOLA

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MOTION HEARING

BEFORE: The Honorable William G. Young,
District Judge

APPEARANCES:

GLENN A. MacKINLAY, Assistant United States
Attorney, 1 Courthouse Way, Suite 9200, Boston,
Massachusetts 02210, on behalf of the Government

SWOMLEY & ASSOCIATES (By John G. Swomley, Esq.
And Eric Tennen, Esq.), 227 Lewis Wharf, Boston,
Massachusetts 02110, on behalf of the Defendant

1 Courthouse Way
Boston, Massachusetts

September 22, 2004

1 THE CLERK: Calling Criminal Action 03-10289, the
2 United States v. Robert Coppola.

3 THE COURT: Good afternoon. Would counsel
4 identify themselves.

5 MR. MacKINLAY: Good afternoon, your Honor. Glenn
6 MacKinlay for the United States of America.

7 MR. SWOMLEY: John Swomley for Robert Coppola, and
8 with me is Eric Tennen, an associate in my office.

9 THE COURT: Good afternoon. And he's welcome.
10 And Mr. Coppola is present in the courtroom.

11 Mr. MacKinlay, you were not the attorney who tried
12 this case, but I have read your post-trial submission.
13 It's very thorough. It's obvious you're familiar with the
14 record.

15 Without in any way wanting to blindside any of the
16 arguments that Mr. Coppola may want to make, I want to
17 tighten this up by stating a matter of real concern to the
18 Court, on the sufficiency of the evidence, and I would
19 really like to hear you develop that because it's my major
20 concern.

21 MR. MacKINLAY: Yes, your Honor.

22 THE COURT: First, I've noted that you have argued
23 correctly that I gave a charge to the jury that in one
24 respect was more favorable to Mr. Coppola than the law
25 required. There was no objection to it. Query what rights

1 the government has under these circumstances. But, in any
2 event, I acknowledge that it is not part of the
3 government's burden to prove knowledge on the part of Mr.
4 Coppola of the specific drug that is involved. That said,
5 and taking all intendments in favor of the verdict, the
6 same standard as I must do when I judge the record to see
7 whether a motion should be allowed under Rule 29, my big
8 problem is this. On this record how could it fairly be
9 inferred that Mr. Coppola knew that Mr. Concepcion was
10 himself involved in drug dealing, which seems to me vital
11 to the government's case.

12 I recall during the trial and I raise the analogy
13 again, I'm saying, well, it's not unlawful when you pass a
14 police stakeout to flick your lights to oncoming traffic to
15 tell them that the police have got a speed trap.

16 So, taking all intendments, he knowingly makes
17 this call, he makes it to Concepcion, he says what he says,
18 all of which we have on tape. But on this trial, now, I
19 recognize that I'm presiding over this multi-count
20 indictment, but on this trial where is the evidence that
21 Coppola knew, he knew what he was doing, he knew what he
22 was tipping off, but it seems to me the most, I'm not at
23 this conclusion, I just want to set up your argument, it
24 can be argued that the most the government has is that he
25 was, he was tipping off someone. Concepcion wasn't running